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Surveillance: How necessary? How evil?

Domestic Intelligence: Monitoring Dissent in America, by Richard E. Morgan. Austin, Texas: University of Texas Press. $13.95 in hard-cover, $6.95 in paperback.

By Arnold Beichman

Mark Twain once wrote, "We should be careful to get out of an experience only the wisdom that is in it — and stop there; lest we be like the cat that sits down on a hot stove lid. She will never sit down on a hot stove lid again — and that is good; but also she will never sit down on a cold one anymore."

Twain's apologue might well be the epigraph to Professor Morgan's judicious volume. His fundamental concern is how to deal with the problem of subversion, terrorism, foreign espionage — in other words, survival of a democratic state — in the light of congressional revelations of misdeeds and violations of law by the FBI, CIA, and other federal agencies. Can the government protect the lives and property of its people without at the same time putting at risk civil liberties, such as the right to radical dissent?

Law enforcement, which subsumes prevention of crime as well as apprehending the criminal, depends on intelligence — informants, wire-tapping, mail cover, files, surveillance of all kinds. However, when political crimes are involved, civil libertarians believe that intelligence and surveillance of possible terrorists endanger basic political rights. They point to violations uncovered under the provisions of the Freedom of Information Act.

Civil libertarians would not appreciate Mark Twain's fable, while Professor Morgan, I believe, would. He believes that it is possible to balance the desire for maximum privacy and protection of dissent with the need to protect community safety. He argues persuasively that we must not overreact to the questionable and sometimes illegal practices which have been used by government agencies to monitor political dissent in the US.

Professor Morgan defines "domestic intelligence" as "information gathering and record keeping by law enforcement agencies unrelated to a particular, known crime and directed at persons and groups engaged in political activity." He believes that limited domestic intelligence is justifiable, but only when undertaken on the basis of some "reasoned expectation" that serious criminal activity is contemplated by a particular subject. And here is the problem — how can you get that "reasoned expectation" without information gathering and record keeping, which, today, is probably illegal.

There is no easy solution to the problem of the legitimate needs of the state on the one hand and the rights of the people on the other, particularly in an era when the Soviet KGB has been as active as it has been during the past decade of declining US counterintelligence capabilities. Professor Morgan's fair-minded discussion of the need to safeguard national security without imperiling the Bill of Rights is a welcome contribution to a sulfurous debate.

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